

DISTRICT COURT OF THE VIRGIN ISLANDS

DIVISION OF ST. CROIX

UNITED STATES OF AMERICA,

v.

MIKEY LUKE,

Defendant.

1:21-cr-00011-WAL-EAH

**TO: Melissa P. Ortiz, Esq., AUSA
Renee D. Dowling, Esq.**

ORDER GRANTING MOTION

THIS MATTER is before the Court upon the Government's unopposed Motion for Extension of Time to File Response (Dkt. No. 70).

On May 31, 2022, Defendant moved for Order Requiring Government to Produce Samples for Independent Testing (Dkt. No. 69). Pursuant to Local Rule of Civil Procedure 6.1(b)(5),¹ the Government's response was due June 14, 2022. The Government now moves for a one-week extension of time to respond to Defendant's motion because 1) a "one-week extension of time would allow the undersigned sufficient time to review Defendant's Motion and draft a response[,]" 2) the motion is unopposed, and 3) the instant motion "is not made for any dilatory purpose."

In General. When an act must or may be done within a specified period, the court on its own may extend the time, or for good cause may do so on a party's motion made:

- (A) before the originally prescribed or previously extended time expires; or
- (B) after the time expires if the party failed to act because of excusable neglect.

¹ Applicable here under Local Rule of Criminal Procedure 1.2.

USA v. Luke
1:21-cr-00011-WAL-EAH
Order
Page 2

Fed. R. Crim. P. 45(b)(1).

The Government does not address why the previous 14 days have not provided sufficient time to review Defendant's motion and draft a response. Thus, the Court does not find that the Government has established good cause. The Government's motion—filed after the deadline for its response—fails to address excusable neglect at all.

Despite the Government's failure to meet the legal standard set by the Federal Rules, this Court is bound by Local Rule of Civil Procedure 6.1(b)(7):

No party may amend the deadlines for the filing of motions or responses thereto if the Court has issued an order setting such deadlines. In the absence of such an order, a party may seek an extension from the other party of the deadline otherwise prescribed in this Rule. When a party requests an extension of time from the other party, the parties shall first make a good faith effort to negotiate a reasonable extension which shall not exceed 30 days from the deadline otherwise prescribed in this Rule. Only one such extension for the motion, response, or reply in question is permitted. The party seeking the extension must file notice of any such negotiated extension before the filing date prescribed in this Rule.

Id.

The Government moved for this extension at the June 15, 2022 Calendar Call and Defendant did not object. The Government is on notice going forward of the proper procedure, specifically that notice of a negotiated extension of time is still required to be filed before the filing deadline.

Upon consideration of the unopposed motion and the applicable legal principles, the Court will grant the motion.

WHEREFORE it is hereby **ORDERED**:

USA v. Luke
1:21-cr-00011-WAL-EAH
Order
Page 3

1. Government's unopposed Motion for Extension of Time to File Response (Dkt. No. 70) is **GRANTED**.
2. The Government's response to Defendant's Motion for Order Requiring Government to Produce Samples for Independent Testing (Dkt. No. 69) is due no later than **June 22, 2022**.

ENTER:

Dated: June 15, 2022

/s/ Emile A. Henderson III
EMILE A. HENDERSON III
U.S. MAGISTRATE JUDGE